

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

SHIANA K. BARBOSA,

Plaintiff,

v.

Case No. 3:19-cv-1185-HES-JRK

HUMAN RESOURCES OFFICE
DODEA, LLOYD J. AUSTIN III,¹
and JAY M. BURCHAM,

Defendants.

ORDER

This cause is before the Court on the Motion for Entry of Default by Clerk (Doc. No. 15; “Motion”), filed May 6, 2021, in which Plaintiff requests that default be entered against all Defendants. Upon review, the Motion is due to be denied.

Rule 4(i)(2) sets forth the rules governing service of process in cases in which a plaintiff sues a United States agency or a United States officer in his or her official capacity. In such cases, the plaintiff must: 1) serve the United States; and, 2) “send a copy of the summons and of the complaint by registered

¹ Lloyd J. Austin III became the United States Secretary of Defense on January 22, 2021. Pursuant to Rule 25(d), Federal Rules of Civil Procedure (“Rule(s)”), Lloyd J. Austin III is substituted for Mark T. Esper as a Defendant in this suit.

or certified mail to the agency, corporation, officer, or employee” being sued.

Fed. R. Civ. P. 4(i)(2). To serve the United States, the plaintiff must:

(A)(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought—or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk—or

(ii) send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney’s office;

(B) send a copy of each by registered or certified mail to the Attorney General of the United States at Washington, D.C.; and

(C) if the action challenges an order of a nonparty agency or officer of the United States, send a copy of each by registered or certified mail to the agency or officer.

Fed. R. Civ. P. 4(i)(1).

Here, Plaintiff has failed to properly effect service of process on Defendants. First, Plaintiff has offered no proof that she has served the Department of Defense Education Activity (DoDEA), Human Resources Division. Second, Plaintiff sent Jay M. Burcham a copy of the summons and of the complaint by certified mail pursuant to Rule 4(i)(2) on May 15, 2020, see Affidavit of Service via Certified Mail (Doc. No. 14), filed November 9, 2020, but she did not serve the United States under Rule 4(i)(1). Third, it appears Plaintiff personally served Mark T. Ester (the United States Secretary of Defense at the time of service) on November 5, 2019, see Affidavit of Service (Doc. No. 13), filed November 9, 2020, but she failed to serve the United States.

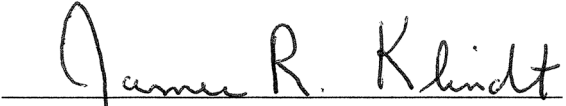
Based on the foregoing, the Motion is due to be denied. Plaintiff shall properly effect service of process on Defendants as failure to do so may result in dismissal of her case for failure to prosecute. See Local Rule 3.10, United States District Court, Middle District of Florida. In doing so, Plaintiff shall ensure that a copy of the summons and of the complaint is sent by registered or certified mail to the current United States Secretary of Defense, Lloyd J. Austin III. See Fed. R. Civ. P. 4(i)(2).

Accordingly, it is

ORDERED:

1. The Motion for Entry of Default by Clerk (Doc. No. 15) is **DENIED**.
2. No later than **July 6, 2021**, Plaintiff shall effect service of process on Defendants and file proof of such service.

DONE AND ORDERED in Jacksonville, Florida on June 3, 2021.



JAMES R. KLINDT
United States Magistrate Judge

bhc
Copies to:
Counsel of Record